

Members

Sen. Marvin Riegsecker, Chairperson  
Sen. Rose Antich-Carr  
Rep. Sheila Klinker  
Rep. Robert Alderman  
Suda Hopkins  
Sally Lowery  
Ervin Picha  
Joanne Warner  
Thomas Van Meter  
Betty Williams  
Sylvia Marie Brantley  
Christopher Durcholz



# INDIANA COMMISSION ON MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

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Authority: IC 2-5-27.2

## MEETING MINUTES<sup>1</sup>

**Meeting Date:** September 29, 2003  
**Meeting Time:** 1:30 P.M.  
**Meeting Place:** State House, 200 W. Washington  
St., Room 130  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 3

**Members Present:** Sen. Marvin Riegsecker, Chairperson; Sen. Rose Antich-Carr;  
Rep. Sheila Klinker; Rep. Robert Alderman; Suda Hopkins;  
Sally Lowery; Thomas Van Meter; Betty Williams; Sylvia Marie  
Brantley; Christopher Durcholz.

**Members Absent:** Ervin Picha; Joanne Warner.

### I. Call to Order

**Senator Riegsecker** called the meeting to order at 1:40 P.M.

### 2. Discussion of State Programs for Persons with an MR/DD Diagnosis Committed to the Criminal Justice System

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

**(a) Suzanne Clifford, Director Division of Mental Health and Addiction, Family and Social Services Administration,** testified that the Division of Mental Health and Addiction and the Division on Disabilities, Aging, and Rehabilitative Services work closely to serve clients with co-occurring issues. There is a long way to go to get to an adequate diversion program from the courts to treatment programs. The lack of continuing access to treatment when persons enter and leave the mental health system presents a serious challenge. Now, the Division of Mental Health and Addiction is able only to fund those with the most severe problems. The fact that many private providers are closing their doors (approximately ten addiction programs around the state have not sought re-certification) is putting more stress on the system. Ms. Clifford said that shortages in the workforce are a serious issue. The fact that funding and programs are in silos where money and persons cannot easily move from one funding source to another is another problem in providing the proper services. Additionally, primary health care providers, lawyers, and judges do not have enough training to ensure that problems are identified and the right programs are accessed.

Discussing diversion from criminal justice to treatment programs is made more difficult because of concerns that advocating treatment instead of incarceration leads to allegations of being soft on crime. Ms. Clifford said that no one should think that treatment is easy, and diversion can cut down on the number of persons returning to the criminal justice system again and again. She discussed her concerns with the current incompetent to stand trial statutes. With MR/DD clients, it is often impossible to restore the individual to competency to stand trial which means that a determination of incompetent to stand trial can amount to a life sentence. Ms. Clifford also told the Commission members that there are instances where families are not sure where to go for help and turn to the criminal justice system to obtain help for their children.

Ms. Clifford reported that there is a small, sixty-six bed forensic unit at Logansport State Hospital. While there is more security than in the rest of the facility, it is by no means maximum security. In the next few years there will be an enhancement to the facility to increase it to one hundred five forensic beds. That will still not meet the demand for forensic beds. The National Alliance for Mental Illness (NAMI) does have a program to provide crisis intervention training for law enforcement personnel. Ms. Clifford believes that training for MR/DD would be essentially the same. Training will not only insure that persons are given the proper treatment in the criminal justice system but also will enhance law enforcement officer safety.

**(b) Diane Maines, Staff Counsel, Department of Correction,** testified that the Department uses only an IQ standard of 70 or below for determining if inmates are mentally retarded. Also, if a person tests below 6th grade level for reading, the person is further tested. However, persons are not mandated to take the tests at intake. In the adult male population, the Department currently has no inmates classified as MR/DD. All inmates are, therefore, in the general population with no special MR/DD facilities or programs. At the Women's Prison, there is more compliance with taking the test, and in 1999 a small number of females were classified as MR/DD. At the juvenile facilities, the tests are mandatory since there are school requirements for the juveniles.

There was discussion on the impact of requiring the testing. According to the discussion, the fiscal impact of actually doing the testing would not be that great.

### **3. Discussion of Interaction of MR/DD Programs and the Criminal Justice System**

**(a) Dr. Michael Jenuwine, IU School of Law, Child Advocacy Clinic,**

**Bloomington**, explained that the clinical definition of "mental retardation" consists of the following three elements: (1) IQ of less than 70, (2) impairment in adaptive functioning, and (3) mental retardation prior to reaching the age of 18. Dr. Jenuwine provided the Commission with a flow chart of interaction with the criminal justice system. (Exhibit 1) Barriers to receiving treatment may occur at many stages. Education of prosecutors is essential to getting proper responses in the system. Safety for society and the individual is the major concern in any good system. Mentally retarded persons are more likely to try to please public safety officers and prosecutors which can lead to situations where improper charging and convictions may occur. Training is essential to making improvements in the system.

**(b) Indiana Partnership Group** - In lieu of a presentation, a handout was provided to the members. (Exhibit 2)

**(c) Brian Davis, Bridges Police Training Coordinator**, explained the program developed in Lake County to help train law enforcement personnel. (Exhibit 3) They try to work with suspects as well as victims to help provide proper services. They also do advocacy work. Mr. Davis told the members that nationally mental retardation occurs in approximately two percent of the population. Mr. Davis was accompanied by Mr. Scott Sefton and Mr. Ron Logsdon.

**(d) Dorinda Rupp, Protection Advocacy Services, Logan Center, South Bend**, explained the programs Logan Center has for persons in trouble with the law. They are working with attorneys and others to educate them on ways to work with persons with MR/DD. **Mr. Steven Drindal, attorney for Logan Center**, discussed education programs they have instituted. (Exhibits 4, 5, 6, and 7) Mr. Drindal discussed how important it is to help transition persons who have been in the correctional system back into their communities. The development of secure residential facilities is also important. Ms. Rupp explained that Logan has a one year, non-renewable grant for \$40,000 for a project to work with persons in the criminal justice system. The goal is to reduce recidivism and to help persons become contributing members of society. **Mr. Bob Booker, grant administrator**, said that under the grant they had thirty-six referrals, and he discussed the status of the persons in the program.

**(e) Mr. Nick Gulling, Sheriff Hancock County**, discussed issues that law enforcement personnel face when dealing with persons with MR/DD. He explained that law enforcement personnel must take persons who no one else wants to deal with. In addition to finding the best way to deal with individuals, they need to protect law enforcement officials from harm. Sheriff Gulling emphasized the importance of training. He said that law enforcement personnel and jail personnel should have additional training. There was discussion about having training added as part of the curriculum at the Law Enforcement Training Academy for officers and jail staff. There was also discussion on the possibility of adding training requirements in the continuing education programs. Sheriff Gulling also discussed issues that arise because of state hospital closure. He indicated that there will always be a need for some state beds and programs at the state level. Local settings are not appropriate for all persons in need of services. Sheriff Gulling also pointed out that the new federal privacy requirements serve as an impediment to getting timely medical information for persons in custody.

#### **(4) Discussion of Legislation**

Two pieces of legislation were requested for the next meeting. One was legislation mandating training for law enforcement and jail personnel. The other was legislation for the development of individualized justice plans.

**(5) Next Meeting**

The next meeting was scheduled for Tuesday, October 14th at 10:30 A.M. in Room 130 of the State House.

**(6) Adjournment**

The meeting was adjourned at 4:30 P.M.